



HOUSE BILL 243: Liens/Self-Service Storage Facilities

2013-2014 General Assembly

Committee: Senate Judiciary I
Introduced by: Rep. Stevens
Analysis of: PCS to Third Edition
H243-CSTG-28

Date: April 29, 2013
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SUMMARY: *The PCS to House Bill 243 would amend Article 4 of G.S. Chapter 44A, "Self-Service Storage Facilities," to allow the owner of a self-storage facility having a lien on personal property to tow stored watercraft and trailers from the facility, to deliver notice of the public sale of personal property by certified mail or by verified electronic mail, to publish notice of the sale in any commercially reasonable manner, to conduct the sale through an online, publicly accessible auction website, and to charge a late fee of at least \$15.00 for self-service storage rental units. The PCS adds definitions for "independent bidder" and "verified electronic mail" and makes other technical corrections to the bill.*

[As introduced, this bill was identical to S263, as introduced by Sen. Brown, which is currently in Senate Ref to Commerce. If fav, re-ref to Finance.]

CURRENT LAW:

Article 4 of Chapter 44A gives the owner of a self-service storage facility a lien on all personal property stored at the facility for any unpaid rent and expenses needed to preserve and, if necessary, sell or otherwise dispose of the personal property.¹ The lien covers goods, merchandise, and household items, among other moveable property, including motor vehicles, stored at the facility.² The stored property can be sold to enforce the lien if the rent and other charges are at least 15 days past due, and a stored motor vehicle can be towed from the facility once the rent is 60 days past due.³ Before a public sale of the property, the occupant and any secured parties must be served by certified mail at least 20 days before the sale, and the lienor must also publish notice of the sale in a general circulation newspaper in the county where the sale is to be held, or if there is no such newspaper, in any general circulation publication in that county that accepts classified ads. A public sale must be held between 9:00 a.m. and 4:00 p.m. on a day other than Sunday at the storage facility or the next nearest suitable place, or in the county where the rental contract was made.⁴ The notice of sale is required to include the name and address of the lienor, a statement that the sale is for a lien for a self-storage facility rental, and the place, date, and time of the sale.⁵ In rental contracts that provide a definite time for payment of rent, G.S. 66-306(a) limits the late fee to no more than 15% of the rental payment.

BILL ANALYSIS:

Section 1 of the bill amends G.S. 44A-40's existing definitions to conform to changes in Section 2 of the bill, and defines additional terms used in the act.

¹ G.S. 44A-41. The lien attaches as of the date the personal property is placed in storage, and takes priority over security interests not perfected at the time the personal property is stored at the facility.

² G.S. 44A-40(5).

³ G.S. 44A-43(a), (b)(1a).

⁴ G.S. 44A-43(c).

⁵ G.S. 44A-43(d).



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Section 2 amends G.S. 44A-43 as follows:

- Allows the lienor to tow stored trailers and watercraft away from the facility
- Permits the lienor to give the occupant notice of the right to a hearing and notice of the public sale of stored property using electronic mail, rather than certified mail, if the occupant has elected to receive such notice in the rental agreement
- Permits lienors to advertise sales either in a newspaper or in any other "commercially reasonable manner" as defined in the Uniform Commercial Code
- Requires that sales must be conducted in a commercially reasonable manner, as defined in the Uniform Commercial Code, including conducting an auction through an online, publicly accessible website, and prescribing the days and times when a sale by live auction can be held
- Eliminates the specifications for the contents of the notice of sale

Section 3 amends G.S. 66-306 in the Article entitled "Self-Service Storage Rental Contracts," to provide for the assessment of a late fee for each rental unit not to exceed \$15.00 or 15% of the rental payment, whichever is greater.

EFFECTIVE DATE: This act becomes effective October 1, 2013. Section 3 applies to contracts entered on or after that date.

Jan Paul, counsel to House Judiciary Subcommittee C, substantially contributed to this summary.